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SUBJECT: HUMAN RIGHTS UPDATE: COURT UPHOLDS GERARDI
SENTENCE; NEW MURDER IN CHICHICASTENANGO

1. (U) Summary: The following is an update of significant recent developments in human rights in Guatemala. Topics include:

-- Constitutional Court Rejects Defense Request to Annul Gerardi Sentence

-- Murder of Community Organizer in Chichicastenango

-- Ovale Shooters Sentenced to Life

-- Pres. Portillo's Sister Under Investigation for Threats

End Summary.

Court Upholds Gerardi Sentence

2. (U) On October 1 the Constitutional Court denied a request from defendants in the Gerardi murder case to annul the verdict against them, and ordered the Fourth Court of Appeals to resolve the appeals pending in that case. This decision upholds an earlier decision on February 12, 2003, by the Supreme Court, and reaffirmed the 30-year sentences for ex-military officers Byron Disrael Lima Estrada and Byron Miguel Lima Oliva for extrajudicial execution (a third, Obdulio Villanueva was murdered in a prison riot in February), and the 20-year sentence of Catholic priest Mario Orantes Najera for complicity in the murder of Bishop Juan Gerardi Conedera in April 1998. The appeals court may now consider pending appeals from Orantes and the Bishop's Office of Human Rights. MINUGUA issued a statement on October 2 praising the Court's decision and calling on judicial authorities to resolve the appeals "in strict accordance with the law" and called on the international community to continue to monitor the case and push for complete clarification of the crime.

Murder of Community Organizer in Chichicastenango

3. (U) On September 27, Eusebio Macario, a community organizer, was murdered in Chichicastenango municipality, Quiche province. Amilcar Mendez, founder of the indigenous rights NGO, Council of Ethnic Communities Runujel Junam ("We are all Equal") (CERJ) informed the Embassy of the crime on September 29. He claims that Macario was a founding member of CERJ. According to Angelica Macario, daughter of the deceased, Macario had publicly criticized the FRG candidate for mayor of Chichicastenango, Jose Tiriquiz Tiniguar, for FRG corruption. According to Amnesty International, Macario died from 8 shots in the village of Chulumal, 4 km. from the town of Chichicastenango, apparently from a 9mm pistol. Amnesty fears the murder may be in reprisal for CERJ's work on behalf of victims of Guatemala's internal conflict. CERJ is organizing communities of victims to obtain reparations from the Government. Members of the International Peace Brigade are accompanying CERJ leaders Mendez, Tomas Guarcas and Ms. Macario, who is a candidate for city councilor for the Guatemalan National Revolutionary Union party (URNG). Eusebio Macario was helping his daughter to organize victims of the internal conflict for the National Victims Compensation Commission, and on September 21 participated in a meeting to inform victims of their right to compensation from the Government. Five days later, three unidentified men reportedly asked local residents about the meeting and who organized it, according to Amnesty International's Urgent Action report on the case issued October 2.

4. (SBU) Public Ministry Special Prosecutor for Crimes Against Human Rights Workers, Thelma de Lam, took up the case on September 29, after we brought it to her attention. She promised to share the results when they are available. On October 1 de Lam told PolOff that Tiriquiz had threatened the life of Macario in person three days before the crime took place, in the presence of witnesses. The body may be exhumed on October 2, if the autopsy proves incomplete. De Lam said that, contrary to the claims of Mendez and the victim's daughter, the victim's wife had told investigators that Macario was never a member of CERJ or any other human rights group, but instead was a member of the URNG political party. She also disputed claims reported to us by Mendez that public ministry investigators had not questioned the family of the

victim as of September 30. De Lam insists that her investigators were on the scene on September 29. Mendez met with de Lam and Attorney General de Leon to discuss the case on October 1. The Robert F. Kennedy Memorial Human Rights Center sent letters expressing concern about the case to President Portillo and de Leon on the same day.

15. (SBU) Comment: We will closely monitor the results of the investigation. End Comment.

Ovalle Murderers Sentence to Life

16. (U) On September 13, the First Penal Court found Ever Lopez Gomez and Billy Rene Barrios guilty of the April 29, 2002 murder of Guillermo Ovalle, the accountant of the Rigoberta Menchu Tum Foundation. The two were accused of killing Ovalle during an assault in a Guatemala City restaurant. One was apprehended carrying a weapon linked to the attack.

President's Sister Under Investigation for Threats

17. (U) Press reported on September 23 that Edna Portillo, President Portillo's sister, has been called for questioning by the Public Ministry about the use of a government vehicle assigned for her protection. The vehicle in question belongs to the Presidential Guard (EMP), and was sighted on August 1 parked for five hours in front of the Forensic Anthropologist Institute (FAFG). The vehicle also followed FAFG members when they left their office. The FAFG has been the subject of threats and intimidation for the past two years. The Presidential Spokesman would not comment on the case, which he called "a personal matter."

18. (SBU) Comment: Government sources claim Edna's son was romantically involved with the sister of the FAFG director and was upset when she broke off the relationship. We doubt this fully accounts for the two years of mounting threats and intimidation of the FAFG. End Comment.
HAMILTON